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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,277	12/19/2000	Riku Suomela	4925-87	4823

7590 02/11/2004

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EXAMINER

NOLAN, DANIEL A

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 02/11/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/740,277

Applicant(s)

SUOMELA ET AL.

Examiner

Daniel A. Nolan

Art Unit

2654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-49.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 26 January 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: See Continuation Sheet

RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER

Continuation of 10. Other:

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

2. The replacement drawings were received on 26 January 2004. These drawings are acceptable.

Response to Amendment

3. The filing of 26 January 2004, while not entered, would have had the following effect:
- The specification, changed as indicated, would cause the objection to hyperlinks to be withdrawn as satisfied.
 - The claims, changed as indicated, would result in the objections being withdrawn as satisfied.

Response to Arguments

4. Applicant's arguments filed 26 January 2004 have been fully considered but they are not persuasive.
- While SMS is well-known in the art as a technical mode designation, the characteristic does not extend to the length of individual messages. Consequently, the objection to the relative term "short message" is maintained because the specification provides no criteria that would distinguish one message as "short" over others.
 - The assertion that French-St. George et al teaches against using time windows happens not to be the case, as the cited discussion merely discloses considerations in using such techniques. See *In re D'Ancicco*, Collings, and Shine, 172 USPQ 241 (CCPA 1972) page 243.
 - In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, sufficient motivation was provided with the rejection. As stated previously in this section, French-St. George et al discloses requirements for time considerations.
 - In response to applicant's argument that the combination would not be obvious because Matthews is used to identify rather than to command, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

1. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Daniel A. Nolan a telephone (703) 305-1368 whose normal business hours are Mon, Tue, Thu & Fri, from 7 AM to 5 PM. If attempts to contact the examiner by telephone are unsuccessful, supervisor Richemond Dorvil can be reached at (703)305-9645. The fax phone number for Technology Center 2600 is (703)872-9314. Label informal and draft communications as "DRAFT" or "PROPOSED", & designate formal communications as "EXPEDITED PROCEDURE". Formal response to this action may be faxed according to the above instructions, or mailed to:

Mail Stop AF (or CPA, etc. - see Official Gazette, 04 November 2003)
P.O. Box 1450
Alexandria, VA 22313-1450

or hand-deliver to: Crystal Park 2,
2121 Crystal Drive, Arlington, VA,
ixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office at telephone number (703) 306-0377.

Daniel A. Nolan, Examiner, Art Unit 2654

DAN/d
February 8, 2004.